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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant(s): Gleave et al.

Application No.: 09/913,325

Filed: 8/10/2001

Title: TRPM-2 Antisense Therapy

Attorney Docket No.: UBC.P-020

Customer No.: 021121

Group Art Unit: 1635

Examiner: Karen A. Lacourciere

Confirmation No: 8469

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450RESPONSE TO RESTRICTION REQUIREMENT

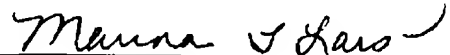
Dear Sir:

In response to the Office Action of October 3, 2003, elect the invention of Group VI (Claims 18-23, and Seq ID No. 4) **WITH TRAVERSE**.

In making the restriction requirement, the Examiner referred only to claims 1-23. However, as a result of an Amendment made in the Response to Written Opinion, and reflected in the annex to Annex to the International Search Report, claims 24-28 were also part of the application. In addition, Applicants also note that the Examiner has failed to refer to the Preliminary Amendment that was filed with the application. A copy of the Preliminary Amendment that amended claims 12 and 14, and added claims 29-34, as well as adding a reference to the parent application and providing a copy of the abstract on a separate sheet is enclosed to ensure that the record is complete. Correction of the record to reflect the status of claims 1-34 is requested.

Applicants respectfully request reconsideration of the restriction requirement. The US Patent Office, and indeed the same Examiner to which this case is assigned, rendered the International Preliminary Examination Report for claims 1-28, and this report was entirely

I hereby certify that this paper and any attachments named herein are transmitted to the United States Patent and Trademark Office, Fax number: 703 872 9306 on October 30, 2003.



Marina T. Larson, PTO Reg. No. 32,038

October 30, 2003

Date of Signature

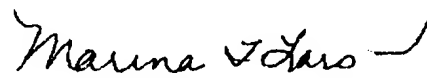
Appln No.: 09/913,325
Amendment Dated: October 30, 2003
Reply to Office Action of October 3, 2003

favorable. No lack of unity objection was imposed in this stage of the process, and all of the claims were examined. Therefore, there is no burden on the Examiner to consider all of the claims in a single application since the work of examining the application has already been done.

Furthermore, the Examiner has not provided a legitimate basis under the PCT Rules for dividing claims 18-23 into three groups based on the sequence identification number. The Examiner states that she is relying on Section (f)(i)(a) of Annex B of the PCT Administrative Instructions as justification for making the restriction. This section of the Annex relates to "the situation involving the so-called 'Markush practice' wherein a single claim defines alternatives (chemical or non-chemical). None of claims 18-23, however, are in Markush format. Thus, claims 18-20 are not limited to just Seq. ID No. 4, 5 or 12, and limiting the invention to something less than that which applicants claims on the basis of a restriction requirement is improper. Only claims 21-23 are limited, and these claims specify individual sequences. Since there is no basis under PCT practice for an election of species, and since claims 18-20 are generic with respect to all three of the designated inventions, restriction for lack of unity in this case is improper.

Accordingly, Applicants submit that all of claims 1-34 should be considered in this application, but that a minimum claims 18-23 should be considered without restriction.

Respectfully Submitted,



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